United Nations CEDAW/C/NPL/CO/6

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
14 November 2018
Original: English

Committee on the Elimination of Discrimination against Women

Concluding observations on the sixth periodic report of Nepal*

1. The Committee considered the sixth periodic report of Nepal (CEDAW/C/NPL/6) at its 1631st and 1632nd meetings (see CEDAW/C/SR.1631 and CEDAW/C/SR.1632), held on 23 October 2018. The Committee's list of issues and questions is contained in CEDAW/C/NPL/Q/6, and the responses of Nepal are contained in CEDAW/C/NPL/Q/6/Add.1.

A. Introduction

2. The Committee appreciates the submission by the State party of its sixth periodic report. It also appreciates the State party's follow-up report to the Committee's previous concluding observations (CEDAW/C/NPL/CO/4-5/Add.1) and its written replies to the list of issues and questions raised by the pre-sessional working group, as well as the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its high-level delegation, which was headed by the Minister for Women, Children and Senior Citizens, Tham Maya Thapa, and included representatives of the Ministry of Law, Justice and Parliamentary Affairs and the Permanent Mission of Nepal to the United Nations Office and other international organizations in Geneva.

B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2011 of the State party's combined fourth and fifth periodic reports (CEDAW/C/NPL/4-5) in undertaking legislative reforms, in particular the adoption of the following:

(a) Safe Motherhood and Reproductive Health Rights Act, in 2018;

(b) Sexual Harassment at the Workplace (Elimination) Act, in 2015;

(c) Act to amend some acts for maintaining gender equality and ending gender-based violence, in 2015;

(d) Witchcraft-related Accusation (Crime and Punishment) Act, in 2015.

* Adopted by the Committee at its seventy-first session (22 October–9 November 2018).

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5. The Committee welcomes the State party's efforts to improve its policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the following:

(a) Agriculture development strategy, in 2015, which defines the achievement of gender equality in agriculture as an integral component of development;

(b) Gender and social inclusion policy of the Election Commission, in 2013, aimed at achieving gender equality at all stages of the electoral process;

(c) National strategy and action plan for the elimination of gender-based violence and the empowerment of women, in 2013;

(d) National action plan against trafficking in persons, especially women and children, in 2012.

Sustainable Development Goals

6. The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure (legal) and de facto (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of the State party and to adopt relevant policies and strategies to that effect.

C. Parliament

7. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see A/65/38, part two, annex VI). It invites the Federal Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report under the Convention.**

D. Principal areas of concern and recommendations

Constitutional and legislative framework and discriminatory laws

8. The Committee welcomes the adoption by the State party in 2015 of its progressive Constitution, article 18 (2) of which prohibits discrimination on the basis of sex. It notes that the State party plans to complete the ongoing reform aimed at bringing its legislation into line with constitutional provisions by mid-March 2019. The Committee is concerned, however, about the following:

(a) The State party's approach to discrimination, as reflected in its Constitution and legislation, which does not provide sufficient protection for women and girls from multiple and intersecting forms of discrimination and does not explicitly cover direct and indirect forms of discrimination in the public and private spheres;

(b) The fact that discriminatory laws and provisions of the Constitution have not been repealed, including article 11 of the Constitution, on citizenship, and the provisions of the Foreign Employment Act of 2007 and the Civil Code that restrict

women's rights to citizenship, access to employment abroad and marital property upon divorce.

9. **The Committee recommends that the State party accord priority to its legislative reform process, taking into consideration the links between articles 1 and 2 of the Convention and target 5.1 of the Sustainable Development Goals, to end to all forms of discrimination against all women and girls everywhere, and also recommends that the State party:**

(a) **Adopt comprehensive anti-discrimination legislation that includes a definition of discrimination against women, encompassing elements of direct and indirect discrimination and multiple and intersecting forms of discrimination in the public and private spheres, and guarantees effective remedies for victims;**

(b) **Repeal all remaining constitutional and legal provisions that discriminate against women and girls, in particular in the areas of nationality, distribution of marital property upon divorce and access to employment abroad.**

Access to justice

10. The Committee welcomes the establishment of judicial committees at the local level and takes note of the drafting of the integrated free legal aid policy and the planned reform of the free legal aid scheme. It expresses its concern, however, about the following:

(a) The low level of awareness among women and girls of their rights and the mechanisms available for gaining access to justice and seeking remedies;

(b) The lack of targeted financial support and legal aid in commonly spoken languages for women facing intersecting forms of discrimination;

(c) That the statute of limitations, which provides for a period of one year to file cases of rape and other forms of sexual violence, fails to take into account the stigma that women and girls face when reporting cases of sexual and gender-based crimes and, therefore, fosters impunity for such crimes;

(d) The fact that judicial and law enforcement officers, in particular at the local level, prevent the registration of cases of sexual and gender-based violence, do not comply with the rulings of higher courts and fail to execute such judgments.

11. **The Committee recommends that the State party, in line with its general recommendation No. 33 (2015) on women's access to justice:**

(a) **Reinforce targeted outreach activities to disseminate information on the legal framework and the available mechanisms for gaining access to justice and legal aid schemes and promote a culture and a social environment in which justice-seeking by women is viewed as both legitimate and acceptable, rather than as a cause for additional discrimination or stigmatization;**

(b) **Provide targeted financial support and legal aid in commonly spoken languages for women facing intersecting and multiple forms of discrimination, such as Dalit women, indigenous women, including Madhesi and Tharu women, women belonging to religious minority groups, women with disabilities, women living in remote areas, lesbian, bisexual and transgender women, intersex persons and displaced and migrant women;**

(c) **Repeal the statute of limitations provision on the registration of cases of sexual violence in all contexts to ensure effective access for women to justice for the crime of rape and other sexual offences;**

(d) **Provide mandatory training through the national Judicial Academy to all members of the judiciary, including members of judicial committees, and law enforcement officers on women's rights, as well as on gender-sensitive investigation and interrogation procedures in cases of gender-based violence against women, in line with commitments made in the context of the second review cycle of the State party under the universal periodic review mechanism of the Human Rights Council (A/HRC/31/9, para. 122.46).**

National machinery for the advancement of women

12. The Committee welcomes the recognition of the National Women's Rights Commission under the Constitution. It is concerned, however, that:

(a) The appointment of the Commissioner on Women's Rights remains pending, insufficient resources are allocated for the functioning of the Commission and its mandate is limited, preventing the Commission from receiving complaints and from issuing rulings that are legally binding, all of which results in the Commission being unable to effectively protect and promote women's rights;

(b) Adoption of the national gender equality policy remains pending and there is insufficient coordination between the National Women's Rights Commission, the Ministry of Women, Children and Social Welfare, the Ministry of Federal Affairs and Local Development and the Ministry for Social Development in their efforts in promotion of gender equality;

(c) There is a lack of a clear mandate, expertise and resources in local government to adequately address discrimination against women and girls.

13. **The Committee recommends, in line with its general recommendation No. 6 (1988) on effective national machinery and publicity, that the State party:**

(a) **Expedite the appointment of the Commissioner on Women's Rights, provide the National Women's Rights Commission with a complaint mechanism and the authority to issue binding rulings, and allocate adequate human, technical and financial resources for its functioning;**

(b) **Prioritize the adoption of a national gender equality policy, ensure that the entity in charge of the implementation of the policy has adequate decision-making authority and human and financial resources to ensure the coordination and cooperation among the ministries tasked with the promotion of women's human rights at all levels;**

(c) **Strengthen the mandate and capacities of local governments to address women's rights and gender equality and reintroduce the allocation of targeted budgets at the local level for women's leadership.**

Civil society organizations and national human rights institution

14. The Committee welcomes the proactivity of civil society organizations in the realization of women's rights in the State party. It is concerned, however, about the following:

(a) The insufficient efforts made by the State party to consult civil society or the National Human Rights Commission in the development of legislation for the implementation of the provisions of the Constitution;

(b) The insufficient engagement of the National Human Rights Commission in the protection of civic space and the promotion of civil society engagement;

(c) That the civic space in the State party is at risk, due to the restrictive provisions of the Electronic Transactions Act, the National Broadcasting Regulations

and the draft online media directive, and is facing further restrictions should the draft national integrity and ethics policy and the privacy policy be adopted without the necessary amendments to protect the activities of civil society organizations and their access to funding for advocacy work.

15. **The Committee recommends that the State party:**

(a) **Ensure the meaningful participation of women's non-governmental organizations, the National Women's Rights Commission and the National Human Rights Commission in the design and implementation of legislation and programmes aimed at protecting women's rights;**

(b) **Strengthen the mandate of the National Human Rights Commission for the protection of civic space and the promotion of civil society engagement;**

(c) **Revise the draft national integrity and ethics policy, the draft privacy policy and the draft online media directive and amend the Electronic Transactions Act and the National Broadcasting Regulations, in consultation with the National Human Rights Commission and civil society, to ensure that they do not restrict the activities and freedom of expression of representatives of non-governmental organizations working on women's rights.**

Temporary special measures

16. The Committee welcomes the introduction of provisions allowing for "special opportunities" for women in the fields of education, health, employment and social security, under article 38 (5) of the Constitution. It is concerned, however, about the following:

(a) The absence of specific legislation that integrates the constitutional provision on "special opportunities" into the national legal framework, in spite of the provisions in article 47 of the Constitution, and provides for special opportunities in the fields of health, education, employment, housing, access to clean water and sanitation and social security;

(b) The lack of recognition in its Constitution of the special needs of women facing intersecting and multiple forms of discrimination, limiting the use of "special opportunities" in law to "socially or culturally backward women";

(c) The lack of mechanisms to monitor the implementation of "special opportunities" and the insufficient awareness among government officials of the benefits and objectives of temporary special measures.

17. **The Committee recommends that the State party, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures:**

(a) **Expedite the adoption of a special opportunity act that includes provisions for such measures in the fields of health, education, employment, housing, access to clean water and sanitation and social security;**

(b) **Recognize the specific needs of all women and girls facing intersectional and multiple forms of discrimination in the legal provisions on "special opportunities";**

(c) **Monitor the implementation of "special opportunities" legislation and ensure awareness-raising among all relevant government officials that the aim of such measures is to accelerate the achievement of substantive equality between women and men and to effect the structural, social and cultural changes necessary to correct past and current discrimination against women, including**

intersectional and multiple forms of discrimination against specific groups of women.

Stereotypes and harmful practices

18. The Committee welcomes the criminalization of a number of harmful practices, including *chhaupadi*, dowry, accusation of witchcraft, discrimination against Dalit persons, and child marriage. It expresses its concern, however, about the following:

(a) The fact that, notwithstanding the criminalization of many harmful practices, *chhaupadi* (isolating menstruating women and girls), child marriage, dowry, son preference, polygamy, discrimination against widows, accusations of witchcraft, discrimination against Dalit and indigenous women and girls, *jhuma* (offering young girls to Buddhist monasteries to perform religious functions), *deuki* (offering girls to deities to fulfil religious obligations) and *dhan-khaane* (parents receiving money for the solemnization of the marriage of their children) remain persistent in the State party;

(b) That adoption of the bill to amend some acts relating to country codes to repeal provisions of the Civil Code that are inconsistent with the Criminal Code, inconsistencies which undermine the State party's efforts to stop child marriage and impede access for victims to legal remedies, remains pending;

(c) Discrimination against intersex persons, namely, abuse, reported infanticide, forced marriage and the conduct of medically unnecessary procedures on Nepali intersex infants and children on the territory of the State party or abroad before they reach an age at which they are able to provide their free, prior and informed consent;

(d) The underreporting of harmful practices and insufficient short- and long-term support for victims.

19. **Recalling its previous recommendation (CEDAW/C/NPL/CO/4-5, para. 18), the Committee recommends that the State party, in line with the joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, and with target 5.3 of the Sustainable Development Goals, to eliminate all harmful practices:**

(a) **Expedite the adoption of legislation prohibiting all forms of harmful traditional practices, investigate and prosecute the perpetrators of such practices, impose adequate sanctions and provide compensation to victims;**

(b) **Expedite the development of a comprehensive strategy, with concrete goals and resources, in collaboration with civil society and local government, to raise awareness among all stakeholders, including the police, the judiciary, village-based health networks and religious and community leaders, of legislation on harmful practices and of the effects of those practices on the lives of women and girls;**

(c) **Prioritize the adoption of the bill to amend some acts relating to country codes to bring provisions of the Civil Code regarding the legal age of marriage into line with the Criminal Code, which sets that age at 20 years;**

(d) **Adopt legislative provisions that explicitly prohibit the performance of unnecessary surgical or other medical procedures on intersex children before they reach the legal age of consent and train medical and psychological professionals on the rights of intersex persons;**

(e) Ensure that victims of harmful practices can file complaints without fear of retribution or stigmatization and that they have access to effective remedies and victim support, such as legal, social, medical and psychological assistance and shelters.

Gender-based violence against women

20. The Committee welcomes the adoption of a four-point resolution to end violence against women and girls. It is concerned, however, about the following:

(a) The increasing rates of violence against women, in particular against indigenous women and those who remain in temporary shelters following the earthquake in 2015;

(b) That the adoption of the national strategy and action plan on gender empowerment and ending gender-based violence remains pending;

(c) The restrictive definition of rape in the Criminal Code, the absence of provisions on war crimes in the legislation of the State party and the lack of concrete measures to prevent sexual violence, including rape and forced abortion.

21. **The Committee recommends that the State party, in line with its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19:**

(a) **Develop targeted awareness-raising programmes for communities that are particularly affected by gender-based violence against women, including indigenous communities and communities living in temporary shelters, provide them with special opportunities for access to the gender-based violence elimination fund and promote the participation of indigenous women in the police service;**

(b) **Adopt the national strategy and action plan on gender empowerment and ending gender-based violence before the end of 2018, as indicated during the dialogue, and allocate adequate resources for its implementation, including for the gender-based violence elimination fund;**

(c) **Amend provisions of the Criminal Code so that sexual violence, including rape and forced abortion, is recognized as a form of torture and bring the definition of rape into line with the Rome Statute of the International Criminal Court, in line with commitments made in the context of the universal periodic review (A/HRC/31/9, paras. 121.8–9 and 122.13).**

Women and peace and security

22. The Committee welcomes the establishment of the Commission on Investigation of Disappeared Persons and the Truth and Reconciliation Commission and the ongoing amendment of the Act concerning the enforced disappearances enquiry, truth and reconciliation. It takes note of the planned suspension, in this framework, of the statute of limitations on filing cases relating to rape and other forms of sexual offences perpetrated during the conflict. It is concerned, however, about the following:

(a) The fact that the draft bill to amend the Truth and Reconciliation Commission Act impedes legal action for claims relating to sexual and gender-based violence, including as a war crime and a crime against humanity, owing to the exclusion of the applicability of criminal law legislation with regard to offences committed during the armed conflict that occurred between 1996 and 2006; the lack of definitions of those crimes; the imposition of additional requirements for their prosecution; the substantial reduction in the length of sentences, leaving them

disproportionate to the gravity of the crime; the suspension of ongoing criminal investigations; and provisions allowing for amnesty and reconciliation;

(b) The lack of independence of the Commissioners and insufficient resource allocation to the Commissions, which prevent the advancement of the peace process;

(c) The fact that women and girls who are victims of the armed conflict, including widows, family members of disappeared persons and victims of rape and other forms of sexual violence, do not benefit from interim relief or full reparations;

(d) The delay in the adoption of the second national action plan on the implementation of Security Council resolution 1325 (2000).

23. **The Committee recommends that the State party, in line with its general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations and general recommendation No. 33 (2015):**

(a) **Remove the statute of limitations for filing cases relating to sexual violence perpetrated during the conflict, bring the Truth and Reconciliation Commission Act into line with its obligations under international law, in consultation with civil society and victims, taking into account the ruling of the Supreme Court of 26 February 2015 ordering the amendment of the amnesty provisions of the Act, and guarantee the integration of a gender perspective into the Act;**

(b) **Take appropriate measures to ensure the independence and impartiality of the Commissioners and allocate adequate human, technical and financial resources for the operation of the two Commissions;**

(c) **Guarantee access for women and girls who are victims of the armed conflict to interim relief and full and effective reparations, including restitution, compensation, rehabilitation and guarantees of non-recurrence;**

(d) **Expedite the adoption of the second national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security, to ensure durable peace in the State party.**

Trafficking and exploitation of prostitution

24. The Committee welcomes the establishment in each district of a fund for the rehabilitation of survivors of trafficking and the training of judicial and law enforcement officers on combating trafficking in persons. It expresses concern, however, about the following:

(a) The provisions of the Foreign Employment Act restricting women from opportunities in foreign employment, in addition to the ban on foreign domestic work, which push women, in particular displaced, rural, indigenous and Dalit women and girls, into irregular patterns of migration, which exposes them to a higher risk of becoming victims of trafficking in persons;

(b) The lack of an early identification and referral system for women and girls who are victims of trafficking;

(c) The underreporting of trafficking crimes committed against women and girls, owing to fear of retaliation and insufficient victim and witness protection mechanisms;

(d) The restrictive definition of trafficking in the Human Trafficking and Transportation (Control) Act, preventing the protection of women and girls from sexual exploitation and sex trafficking, imposing fines for women who do not appear in court and failing to provide for adequate compensation;

(e) The low conviction rates and the application of lenient sentences for trafficking crimes committed against women and girls, owing to the negligence and direct complicity of State officials and to the prosecution of trafficking under the Foreign Employment Act;

(f) The insufficient resource allocation to shelters for women and girls who are victims of trafficking, as well as reports that victims of trafficking, including women engaging in prostitution, have been arrested, detained and deported for acts committed as a consequence of having been trafficked.

25. **The Committee draws the attention of the State party to target 5.2 of the Sustainable Development Goals, to eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation, and recommends that the State party:**

(a) **Lift the ban imposed on women workers seeking employment abroad and raise awareness among rural, displaced, indigenous and Dalit women and girls about the risks and criminal nature of trafficking;**

(b) **Adopt standard operating procedures to ensure the early identification of victims of trafficking and their referral to protective services and integrate its content into the training of judicial and law enforcement officers and service providers;**

(c) **Expedite the adoption of the bills on witness and victim protection and enhance training, through the Nepal Police Academy and the Judicial Academy, on the national minimum standards for victim protection;**

(d) **Expedite the revision of the bill to amend the Human Trafficking and Transportation (Control) Act, to bring it into line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the ratification of the Protocol, in line with commitments made in the context of the universal periodic review (A/HRC/31/9, para. 123.12);**

(e) **Investigate, prosecute and punish cases of trafficking in women and girls, corruption and the complicity of State officials, ensuring that sentences match the seriousness of the offence and that those who are victims of trafficking are exempted from any liability;**

(f) **Allocate adequate resources to rehabilitation centres to ensure that women and girls who are victims of trafficking are provided with adequate protection and redress, including access to counselling, medical treatment, psychological support, rehabilitation and compensation.**

26. The Committee is concerned that the Human Trafficking and Transportation (Control) Act punishes women in prostitution rather than the exploitation of prostitution. It also expresses its concern about the absence of the regulation of work in and the monitoring of the entertainment and hospitality service sector. The Committee is also concerned about reports of harassment and violence against women in prostitution by law enforcement officers, the carrying of condoms being used as evidence of engaging in prostitution and the extortion and arrest of women in prostitution.

27. **The Committee recommends that the State party:**

(a) **Formulate a comprehensive policy, legislative and regulatory framework that ensures the monitoring, and legal protection from exploitation, of women who engage in prostitution and ensure that they are not prosecuted for engaging in such activities;**

(b) **Investigate, prosecute and punish law enforcement officers for the harassment and extortion of women in prostitution and ensure that victims are provided with protection and support in a gender-sensitive manner;**

(c) **Strengthen exit programmes for women who wish to leave prostitution.**

Participation in political and public life

28. The Committee notes with appreciation the introduction of constitutional provisions on the representation of women in all State bodies and in the Federal Parliament. It is concerned, however, about the following:

(a) The underrepresentation of women in the judiciary, law enforcement and the foreign service;

(b) The insufficient enforcement of electoral quotas and of the constitutional provisions on proportional inclusion, in particular regarding Dalit women;

(c) The overrepresentation of women, in particular Dalit and indigenous women, in lower positions, such as vice-speaker at the federal level and deputy mayor or vice-president at the local level;

(d) The failure to consult women who have been elected at the local level, in particular Dalit and indigenous women, in decision-making processes and the insufficient efforts to strengthen their capacities to efficiently fulfil their mandates.

29. **The Committee recommends that the State party, in line with its general recommendation No. 23 (1997) on women in political and public life:**

(a) **Adopt targeted measures, including targeted scholarships, in line with article 4 (1) of the Convention and the Committee's general recommendation No. 25, to achieve substantive equality between women and men in the judiciary, law enforcement and the diplomatic service, in particular at the decision-making level;**

(b) **Enforce and monitor the implementation of electoral quotas and the composition of State entities at the local, district and federal levels and consider adopting sanctions against political parties that do not comply with the regulations;**

(c) **Introduce a proportional representation system (sometimes referred to as a "slide" or "zipper" system) of placing candidates on an electoral list, in which women and men are alternated, in order to achieve parity and enhance targeted training and mentoring programmes for women who stand for election and women elected to public office and programmes on leadership and negotiation skills for current and future women leaders (CEDAW/C/NPL/CO/4-5, para. 24);**

(d) **Raise the awareness of public officials and society as a whole of the importance of the full and equal participation of women from all groups of society, including Dalit and indigenous women, in decision-making (CEDAW/C/NPL/CO/4-5, para. 24).**

Nationality

30. The Committee takes note of the information provided by the State party, indicating that constitutional provisions on the acquisition of citizenship are based on the principle of equality and non-discrimination, and of the submission of a bill to amend the Citizenship Act to the Federal Assembly. It remains concerned, however, about the following:

(a) The discriminatory provisions in articles 11 (3), 11 (5) and 11 (7) of the Constitution limiting women's autonomy with regard to nationality and the ability to transmit citizenship through marriage and to their children;

(b) That women, in particular single mothers, are being denied citizenship certificates and registration of their children, which prevents those women and their children from opening bank accounts, obtaining driver's licences, voting, managing their property, gaining access to education, acquiring travel documents, applying for employment in the public sector and benefitting from social services;

(c) The high number of persons at risk of becoming stateless in the State party and the lack of a specific timeline for acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

31. **The Committee, in line with its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women and its previous recommendations (CEDAW/C/NPL/CO/4-5, para. 26), recommends that the State party:**

(a) **Amend or repeal all discriminatory provisions in its Constitution that are contradictory to article 9 (2) of the Convention in order to guarantee that Nepali women may transmit their nationality to their children, as well as to their foreign spouses, under the same conditions as Nepali men, whether they are in the country or abroad, in accordance with commitments made in the context of the universal periodic review (A/HRC/31/9, paras. 122.2, 122.67–70 and 123.23);**

(b) **Bring the bill to amend the Citizenship Act and the related rules, as well as the draft birth, death and other personal event registration act, into line with the Convention, including by removing requirements regarding consent and assistance of the husband or the husband's family and documentation of the whereabouts and identity of the husband;**

(c) **Provide training to district administration offices on the circular promulgated in 2013 to provide citizenship certificates to children on the basis of the Nepali citizenship of their mother and establish a complaint mechanism for reporting cases of denial of receiving citizenship applications;**

(d) **Periodically conduct citizenship certificate distribution campaigns, with teams to issue citizenship certificates, taking into account the difficulties faced by women in securing proof of nationality;**

(e) **Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Education

32. The Committee welcomes the entrenchment of special opportunities for women with regard to education in the Constitution, the adoption of the inclusive education policy and the important progress made towards gender equality in school enrolment. It is concerned, however, about the following:

(a) The lower enrolment and higher drop-out rates among girls from poor households, girls living in remote areas, girls belonging to "lower castes", indigenous groups and religious and linguistic minority groups and girls with disabilities;

(b) The deficient educational infrastructure, including owing to the earthquake in 2015, which compels girls to travel long distances to school, and the lack of access to safe drinking water and adequate sanitation facilities;

(c) The fact that girls suffer sexual harassment, corporal punishment and abuse in school, including by teachers;

(d) The low representation of female teachers in community schools.

33. **The Committee, taking note of target 4.5 of the Sustainable Development Goals, to eliminate gender disparities in education, recommends that the State party, in line with its general recommendation No. 36 (2017) on the right of girls and women to education:**

(a) **Reinforce action to promote equality and inclusion in education, including by enhancing support systems, scholarships and incentives for girls from poor households, girls living in remote areas, girls belonging to "lower castes", indigenous groups and religious and linguistic minority groups and girls with disabilities, by training teachers on inclusive schools and by monitoring the implementation of those measures in the framework of the State party's school sector reform plan;**

(b) **Ensure that schools are girl- and disability-friendly, within a reasonable distance of communities and have supplies of safe drinking water and separate hygienic toilets for girls;**

(c) **Address safety issues for girls in and out of school, effectively investigate and prosecute acts of corporal punishment, harassment, abuse or gender-based violence perpetrated against girls at school and endorse the Safe Schools Declaration;**

(d) **Increase the proportion of female teachers at the primary through tertiary levels (CEDAW/C/NPL/CO/4-5, para. 28), including by increasing the enrolment of women in teacher training centres and colleges;**

(e) **Accede to the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education.**

Employment

34. The Committee welcomes the adoption of the National Labour Act, which introduces legislative provisions to ensure equal pay for work of equal value, prohibit discrimination on the basis of sex and provide for minimum remuneration and for public and weekly holidays for domestic workers. It notes the development of a policy on safe migration. It expresses its concern, however, about the following:

(a) The lack of information on measures taken to eliminate horizontal and vertical segregation in the labour market;

(b) The insufficient awareness among women employed in the formal and informal sectors, in particular among home-based workers, of their rights under the Contributions-based Social Security Act and the insufficient funds allocated for its implementation, which prevents women from benefitting from the protections entrenched in the Act;

(c) The underreporting of cases of sexual harassment and the insufficient implementation of the Sexual Harassment at the Workplace (Elimination) Act;

(d) The inadequate inspection of workplaces in the formal and informal sectors, including in domestic work and the entertainment sector, to guarantee the implementation of the working conditions defined in the National Labour Act.

35. **The Committee recommends that the State party, taking into account target 8.5 of the Sustainable Development Goals, to achieve full and productive**

employment and decent work for all women and men and equal pay for work of equal value:

(a) Provide information, in its next report, on measures taken to address and eliminate horizontal and vertical segregation in the labour market;

(b) Raise awareness among women employed in the formal and informal sectors, in particular among home-based workers, on their right to social protection and gather sufficient resources for the implementation of the protections provided for in the Contributions-based Social Security Act;

(c) Raise awareness of employers and employees in the public and private sectors on the anti-sexual harassment code of conduct and the Sexual Harassment at the Workplace (Elimination) Act to break the culture of silence surrounding sexual harassment, establish a confidential and safe complaint mechanism and facilitate access to justice for victims of sexual harassment in the workplace;

(d) Strengthen the quality and capacity of the national labour inspection system so that the working conditions of women in all fields covered by the National Labour Act, including in domestic work and the entertainment sector, are effectively monitored and enhance access to justice for women in the labour market.

Women migrant workers

36. The Committee notes with appreciation that the State party signed labour agreements for the protection of Nepali workers in Jordan and Qatar and memorandums of understanding with Bahrain, Israel, Japan, the Republic of Korea and the United Arab Emirates. It is concerned, however, about the following:

(a) The restrictions imposed on women with regard to access to employment abroad under the Foreign Employment Act, in addition to the guidelines on women migrant domestic workers;

(b) The restrictions on freedom of movement and limited predeparture training programmes, which leave women exposed to discriminatory practices, including physical abuse and sexual assault, forced labour an unequal pay;

(c) The lack of support mechanisms for the reintegration of Nepali migrant women who return to the State party.

37. **The Committee recommends that the State party, recalling target 8.8 of the Sustainable Development Goals, to protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants:**

(a) Guarantee all women equal access to employment within and outside the State party, including by repealing discriminatory restrictions imposed on women endeavouring to work abroad and by expediting the ongoing revision of the guidelines on women migrant domestic workers;

(b) Include the standards provided for in the National Labour Act, including those for domestic work, in all bilateral agreements and enhance gender-sensitive predeparture and post-arrival orientation services, to include legal awareness about foreign employment, the rights of migrant women in the country of destination and under the Foreign Employment Act and information on how to claim those rights (A/HRC/38/41/Add.1, para. 109);

(c) Adopt a policy and enhance service provision for the social reintegration of Nepali migrant women who return to the State party;

(d) **Ratify the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.**

Health

38. The Committee notes with appreciation the ongoing deliberations on the public health bill, which contains provisions on the provision of non-discriminatory health services free of cost and the introduction of components on reproductive health in school curricula. It is concerned, however, that:

(a) Education on reproductive health in school does not equip students with the knowledge and life skills required to protect themselves from unplanned pregnancy and its consequences;

(b) Abortion is criminalized in the State party, whereas estimations indicate that 62 per cent of unplanned pregnancies end in abortion and that more than half of those abortions are conducted clandestinely, endangering the health and life of the mother;

(c) Women and girls have insufficient access to high-quality sexual and reproductive health-care services and information, resulting in high maternal mortality rates and prevalence of uterine prolapse, obstetric fistula, cervical cancer and reproductive tract infections;

(d) There is persistent discrimination by health-care providers against Dalit women, indigenous women, women with disabilities, lesbian, bisexual and transgender women, intersex persons, women in prostitution and women from remote areas.

39. **The Committee recommends that the State party, in line with its general recommendation No. 24 (1999) on women and health, and taking into account target 3.1, to reduce the global mortality ratio to less than 70 per 100,000 live births, and target 3.7, to ensure universal access to sexual and reproductive health-care services, of the Sustainable Development Goals:**

(a) **Incorporate age-appropriate and gender-sensitive comprehensive sexuality education curricula that include information on sexual and reproductive health and rights, responsible sexual behaviour and measures to prevent early pregnancy and sexually transmitted infections, at all levels of education, and train teachers to deliver those curricula;**

(b) **Amend the Safe Motherhood and Reproductive Health Rights Act to fully decriminalize abortion in all cases, to legalize it at least in case of risk to the health of the mother, in addition to the cases for which it is already legalized, including in cases of rape, incest, severe fetal impairment and risk to the life of the mother, and allocate sufficient resources to raise awareness of safe abortion clinics and services;**

(c) **Reinforce measures and allocate adequate resources to ensure that all women and girls, including those in rural and remote areas, have access to high-quality and age-appropriate sexual and reproductive health care, in line with commitments made in the context of the universal periodic review (A/HRC/31/9, para. 122.95);**

(d) **End discrimination by health-care providers against Dalit women, indigenous women, women with disabilities, lesbian, bisexual and transgender women, intersex persons and women in prostitution, by raising awareness among providers, with the support of female community health volunteers, of the rights of those groups and encouraging reporting.**

Disadvantaged groups of women

40. The Committee welcomes the fact that, under article 18 (3) of the Constitution, the adoption of special provisions by law for the empowerment of citizens, including "Dalit, indigenous people, Madhesi, Tharu, Muslim, oppressed class, Pichhada class, minorities, the marginalized, farmers, labourers, youths, children, senior citizens, gender and sexual minorities, persons with disabilities, persons in pregnancy, incapacitated or helpless, backward region and indigent Khas Arya", is permitted. It is concerned, however, about the following:

(a) The lack of recognition of the rights of indigenous women in the Constitution and the general lack of recognition of the right of indigenous peoples to self-determination;

(b) The insufficient implementation of legislation protecting those belonging to minority groups from discrimination, such as the Caste-based Discrimination and Untouchability (Offence and Punishment) Act of 2011;

(c) That the State party's economic development and poverty indicators illustrate persistent inequalities in terms of poor outcomes for indigenous, Dalit, Madhesi and Tharu women, women of "oppressed classes", widows in the Hindu community and rural women and that the earthquake in 2015 exacerbated food insecurity and the lack of access to natural resources, housing, safe water and credit facilities for women belonging to those groups.

41. **The Committee recommends that the State party, in line with the Committee's general recommendation No. 34 (2016) on the rights of rural women and general recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change:**

(a) **Amend the Constitution to explicitly recognize the rights of indigenous women, in particular their right to self-determination, in line with the United Nations Declaration on the Rights of Indigenous Peoples;**

(b) **Take all measures necessary to ensure the effective implementation of the Caste-based Discrimination and Untouchability (Offence and Punishment) Act, in line with commitments made in the context of the universal periodic review (A/HRC/31/9, para. 122.35);**

(c) **Adopt temporary special measures with clear timelines, in line with the constitutional provisions on "special opportunities", to enhance access for women facing intersecting and multiple forms of discrimination, including indigenous, Dalit women, rural women, women with disabilities and widows in the Hindu community, as well as women affected by conflict and natural disasters, to health services, education, safe water and sanitation services, food, fertile land, natural resources, housing, credit and income-generating opportunities, including through the presidential programme to uplift women.**

Discriminatory laws in marriage and family

42. The Committee takes note of the information provided by the State party that the adoption of the Act to amend some acts for maintaining gender equality and ending gender-based violence, in 2015, removed all discriminatory provisions from the General Code. It is concerned, however, that, notwithstanding the recent legislative review that resulted in the replacement of the General Code with the Criminal Code and Civil Code, Nepali women still do not enjoy equal rights with men with regard to marriage and divorce. The Committee particularly expresses its concern with regard to the following:

(a) The contradictory provisions of the Civil Code that, although prohibiting bigamy, provide that, when a woman bears a child, the woman is automatically married to the father of that child;

(b) That marriage registration is not mandatory, which impedes women in unregistered and/or customary marriages from claiming their legal rights;

(c) That child marriages remain widespread, given that the Civil Code is not in line with the provision of the Criminal Code declaring child marriages null and void, and that section 173 (1) and (3) of the Criminal Code imposes punishments on children in early marriages;

(d) That the discriminatory practice of unilateral divorce (*talaq*) remains a current practice in some communities;

(e) The discriminatory provisions of the Civil Code that prevent women from claiming their property rights upon divorce if they do not provide food for their spouses; terminate common living arrangements with their spouses; inflict physical or mental harm on their spouses or plan to do so; or in cases in which the woman has had extraconjugal relations;

(f) The insufficient enforcement of the provisions of the Civil Code that grant equal status to sons and daughters with regard to family property and inheritance.

43. **The Committee recommends that the State party, in line with its general recommendation No. 21 (1994) on equality in marriage and family relations and general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution:**

(a) **Repeal the provisions of the Civil Code on automatic marriage, by which a women who bears a child is automatically married to the father of that child, in order to outlaw all forms of bigamy and polygamy, and establish legal safeguards to ensure that women enter into marriage only with their free and full consent;**

(b) **Adopt legal measures to protect the rights of women in unregistered marriages and upon the dissolution of unregistered or polygamous marriages, provide for the mandatory registration of all marriages, including religious and customary marriages, and fully implement the provisions of the Criminal Code on the minimum age of marriage;**

(c) **Eradicate the practice of child marriage and ensure that all child marriages are declared void, that children in early marriages are not punished and that they have access to their rights upon termination of those relationships;**

(d) **Eliminate the practice of unilateral divorce (*talaq*) through legal and policy measures that promote equality in matters of marriage and divorce;**

(e) **Guarantee that women and men have equal rights to divorce, including with regard to grounds for divorce and the financial consequences, taking into account the contributions made by the woman to the family's economic well-being during the marriage;**

(f) **Enforce the legal provisions on the equal rights of women and men to inherit property, including land.**

Data collection and analysis

44. The Committee expresses its concern about the general lack of data, disaggregated by sex, geographical location and other relevant factors, in particularly with regard to gender-based violence against women, trafficking, exploitation of

prostitution and employment. It is concerned that this prevents the assessment of the impact and effectiveness of the policies and programmes that are planned or in place to enhance the enjoyment by women of their human rights.

45. **The Committee recommends that the State party expedite the revision of the Census Act to collect data, disaggregated by sex, gender, age, ethnicity, caste, marital status, disability and profession, and make the collection of such data through all State policy and programmes mandatory.**

Amendment to article 20 (1) of the Convention

46. **The Committee encourages the State party to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.**

Beijing Declaration and Platform for Action

47. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

Dissemination

48. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the Federal Parliament and the judiciary, to enable their full implementation.**

Technical assistance

49. **The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.**

Ratification of other treaties

50. **The Committee notes that the adherence of the State party to the nine major international human rights instruments [1] would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.**

Follow-up to the concluding observations

51. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 31 (a)–(b) and 43 (b) and (c) above.**

[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

Preparation of the next report

52. **The Committee requests the State party to submit its seventh periodic report, which is due in November 2022. The report should be submitted on time and cover the entire period up to the time of its submission.**

53. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).**